RECEIVED
CENTRAL FAX CENTER
OCT 14 2008

October 13, 2008

Application No. **US10/538.907**
Titled : **VARIABLE VALVE GEAR**
Applicant: PATTAKOS Manousos et al
Examiner: CHING CHANG
Art Unit : 3748

To: US-PTO Commissioner of patents
And to: Mrs/Mr **Ching Chang**, examiner.

This is the reply to your attached " FINAL ACTION " letter (mailed 07.14.2008).

On August 28, 2007 it was granted by US-PTO to Hyundai Motors carmaker the US7,261,074 patent.
US-PTO filed: December 8, 2005.
Earliest priority: Nov 15, 2005 (23 days earlier than filing in USPTO).
It took only 20 months and 20 days to the USPTO to grant this patent.

Earlier, on February 2005 it was published in WIPO the PCT/GR04/00043 application (PCT filled August 12, 2004, earliest priority August 18, 2003, which is more than two years earlier than the earliest priority of Hyundai's patent).
And since the end of 2003, at http://www.pattakon.com web site there were available to the public many animations, explanations, photos and data from the pattakon VVA prototypes based on the PCT/GR04/00043 application. This web site was, since 2003, at the first rows of the web "search engines" when searching for "Variable Valve Actuation" systems.

According the patent manuals, in order a patent office to grant a patent for a mechanism:

1. the mechanism has to be new, and
2. the mechanism has to have an inventive step, and
3. the mechanism has to have industrial applicability.

All three criteria are based on the "imaginary" creature of the "man skilled in the art". He is the reference and the judge.

The exciting with the "man skilled in the art" is the flexibility of his intelligence (IQ).

In some occasions the "man skilled in the art" is so heavily retarded, that he cannot see how the PCT/GR04/00043 (US publication 20060091344) completely "covers / goes beyond" the above Hyundai US 7,261,074 patent.
It is not necessary for someone to read the whole PCT/GR04/00043 document.

Just a look at Fig 1 is more than adequate, to any person knowing the basics about VVA (variable valve actuation) systems, to understand why Hyundai's patent is not a patent, just a mistake of US-PTO, because it is neither new, nor has an inventive step.

In other occasions, the "man skilled in the art" has an IQ near 200, and nothing appears to him as new, or as having an inventive step.

The questions are reasonable and straight:
Isn't the abovementioned Hyundai patent obvious to the "skilled in the art" under the light of the PCT/GR04/00043?
Isn't the above Hyundai's patent obvious to the skilled in the art after seeing the http://www.pattakon.com/vvar/VVAFreeRollerRockerFlatControl.exe animation (web published more than two years before the earliest priority of Hyundai patent)?

But it is not only Hyundai's US 7,261,074 patent. Tenths of granted patents on the same ccl/123/90.16 class, most filed by car manufacturers, have similar problems as Hyundai's patent. I will be glad to give details, if USPTO is interested.

Your Office claims to be "**AN EQUAL OPPORTUNITY EMPLOYER**". Every letter I receive from USPTO has on its envelope this "motto", written with bold letters.

But the independent inventor's patent took more than 4 year to be finally rejected while the big company's patent was granted in less than 21 months (express patent) without complying neither with the "new" nor with the "inventive step" criteria.
So, where is the **EQUAL OPPORTUNITY**?
You have either to declare that USPTO is unwilling to deal with small entities and countries, or you have to be more careful and noble when you come across an application from Africa, from developing and from non-English speaking Countries.

From your "FINAL ACTION" letter, I copy the reasoning for the rejection of Claims 16 to 24 (page 3):

> 3. Claims 16 to 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
> More specifically, " all three of them " in line 10 of claim 16, and in line 13 of claim 23, " the swivel joint " in line 11 of claim 22, and in line 7 of claim 25, " control cam ", "rocker", "swivel joint", and push rod" in claim 25, and "the roller", and "the member" in claim 26 are lacking antecedent basis, thus render the claimed subject matter in claims 16-26 indefinite.

I understand that my opinion does not count to you.
You are the examiner, the "expert" and the "authority".
So I need something different to support my patent.

Fortunately the patent you refuse to grant, is already approved to be granted by another equally big patent Office (National Phase of the same PCT/GR2004/00043 application), based on the same exactly "wording". The patent publication is expected soon. I will send a copy or the link.
It seems your "austere" rejection of the 16 to 24 claims "as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention" is not applicable in their case.
They (the other equally big Patent Office) regard as "definite" what you regard as "indefinite" and they are convinced that "a man skilled in the art" needs nothing more than the original Description, Figures and Claims to completely understand the protection the applicant claims, and to apply the patent in practice.

In case Hyundai decides to proceed with the application, in mass production, of "their" US 7,261,074 patent, courts will have to decide who owns what (i.e. whether US-PTO did its duty the right way).

Both the skilled and the layman observers are equally surprised, if not laughing, upon seeing the dates, the Figures and the report regarding Hyundai's US patent and mine.

And because invention never stops, when another big OEM comes with a "copy" / a "clone" of the FVVA (US11/759,392) or of the DVVA (US11/764,970) patent applications (Pattakos Manousos et al, both analytically presented at www.pattakon web site), you can grant an "express patent", as your Office did with US 7,261,074 patent "of Hyundai", and leave the original inventor to wait for some 5 years before the final rejection.

I am an applicant/inventor, not a patent attorney.
I persistently refer to US 7,261,074 patent for comparison, because US-PTO granted this patent to Hyundai in express time, while the "true", the "original" US10/538.907 patent application, which not only "covers" Hyundai's patent but provides the general solution of the problem, was initially delayed for long and now is "rejected".

I hope that finally, instead of rejecting my patent, you will reconsider the case.
The future reader of my patent application and of your response will judge both of us.

This reply letter was sent by both, fax and e-mail
Thank you.
Manousos Pattakos

RECEIVED
CENTRAL FAX CENTER
OCT 14 2008

Office Action Summary	Application No.	Applicant(s)	
	10/538,907	PATTAKOS, MANOUSOS	
	Examiner	Art Unit	
	CHING CHANG	3748	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 March 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.